

**UNITED STATES DISTRICT COURT**  
**FOR THE DISTRICT OF NEW MEXICO**

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BOBBIE GALLEGOS and REGINA  
SANCHEZ,

Plaintiffs,

v.

STATE OF NEW MEXICO,  
ALBUQUERQUE PUBLIC SCHOOLS,  
DAVID E. PEERCY, LORENZO L.  
GARCIA, YOLANDA MONTOYA  
CORDOVA, PEGGY MULLER-  
ARAGON, BARBARA PETERSON,  
CANDELARIA PATTERSON,  
ELIZABETH ARMIJO, ROBERT  
CASWELL INVESTIGATIONS, INC.,  
ELEANOR ANDREWS, CLAUDINE  
SANCHEZ, and JOHN DOES 1-10,

No. 1:18-cv-00404-PJK-KK

Defendants.

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**ORDER GRANTING MOTION TO DISMISS COUNTS II and III**

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THIS MATTER came on for consideration of the APS' Defendants Opposed Partial Motion to Dismiss filed May 7, 2018 (ECF No. 6). Upon consideration thereof, the Motion will be granted. Originally filed as an unopposed motion, the APS Defendants later filed a notice indicating that the motion was opposed. ECF No. 7 (May 16, 2018). A response was due May 21, 2018. D.N.M.LR-Civ. 7.4(a). No response to

the motion has been filed nor have the Plaintiffs sought an extension or filed a notice indicating that the parties agreed to an extension of time. See id. The failure to serve and file a response constitutes consent to grant the motion. Id. 7.1(b).

NOW, THEREFORE, IT IS ORDERED that APS' Defendants Opposed Partial Motion to Dismiss filed May 7, 2018 (ECF No. 6), is granted and Counts II and III of Plaintiffs' First Amended Complaint are dismissed with prejudice.

DATED this 29th day of May, 2019, at Santa Fe, New Mexico.

  
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United States Circuit Judge  
Sitting by Designation